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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/547,846	04/12/2000	Jeremy Rosenberg	14688-504	6270

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RESTON, VA 20190

EXAMINER

CHANG, SABRINA A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/547,846

Applicant(s)

ROSENBERG, JEREMY

Examiner

Sabrina Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

***Response to Amendment***

Applicant amendments to claims 15-18 were received October 27, 2002.

***Response to Arguments***

Applicant's arguments filed October 27, 2002 have been fully considered but they are not persuasive.

With respect to claims 1-19, examiner respectfully asserts that while the teachings of Schlasberg may not explicitly encompass the applicant's invention, with regard to "broadcasting" data to user devices, it does solve a similar problem of delivering requests for digital materials in the most suitable format to the appropriate electronic device. The system of Daly adequately discloses the commercial methods used in purchasing various items over different communications networks. It would have been obvious to further expand this commerce-based method to enable delivery over any type of network. Restatement of the original rejection [Paper #5] is given below with clarification.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-8, 10-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daly et al. U.S. Patent No. 5,878,141 in view of Schlasberg PCT No. WO 99/17320 in further view of Fritsch U.S. Patent No 6,233,692.**

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Daly et al. discloses a computerized purchasing system. A customer can make a purchase from any of a number of electronic devices via different forms types of interactive communications networks [Col 6] (the fulfillment system transmits and receives information relating to purchasable items to and from consumers using multiple transmission mediums<sup>7, 15</sup>). In one embodiment a customer can shop using an interactive television system. The interactive television system includes a head end server (fulfillment system), plural set-top boxes (remote devices that are set-top boxes<sup>18</sup>) and a distribution network interconnecting the head end server and set-top boxes. The customer watches a program and is presented with information regarding a good and/or service [Col 10, Line 10] (receiving at each remote device a broadcast message identifying a purchasable item, wherein the broadcast message is transmitted from the fulfillment system to the remote devices using a transmission medium<sup>1</sup>, permitting information corresponding to the broadcast message to be presented to the consumer<sup>1</sup>). The customer is given the option to purchase goods and/or services related to the program [Col 4, Line 60] (receiving an instruction at a particular one of the remote devices associated with one of the consumers, wherein the instruction indicates the consumer's request to obtain a purchasable item; transmitting information from the particular remote device to the fulfillment system, wherein the transmitted information reflects the received instruction<sup>1</sup>).

A customer database at the head end server correlates a set of personal payment methods with corresponding customers (accessing credit information associated with the consumer using a payment identifier associated with the consumer<sup>5</sup>). A purchase request is generated over the distribution network from the set-top box, when the customer wishes to make a purchase. The purchase request identifies the customer making the purchase [Col 12] (payment identifier is

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provided as part of the information transmitted from the particular remote device to the fulfillment system<sup>6</sup>). The customer's purchase is evaluated to determine if it exceeds their allowance (determining whether the consumer is permitted to obtain purchasable item<sup>4</sup>). If the customer's selection exceeds the allowance of the payment methods, the purchase request is denied, else the customer is allowed to select from their available payment options to proceed with the purchase.

In reference to claim 1, 14, Daly et al. does not explicitly disclose providing, by the fulfillment system to a device associated with the consumer associated with the particular remote device at which the instruction was received the purchasable item using a transmission medium different from the transmission medium used for the broadcast message.

In reference to claims 2, 3, 8, 13, 16, Daly et al. does not explicitly disclose maintaining at the fulfillment system a memory containing data associating each remote device with a user. Daly et al. further does not disclose maintaining at the fulfillment system a memory containing data associating each remote device wherein each remote device receives information using different transmission mediums.

In reference to claims 10 and 11, Daly et al. does not explicitly disclose a storage means for storing information correlating the remote devices associated with the remote consumers with a set of remote devices associated with the consumers, nor does it explicitly disclose at least one table including an identifier for each remote device and data indicating a delivery address for transmitting items to the set of client devices associated with the consumers in response to the received purchase requests. Device identifiers are widely known in the art, e.g. unique cable subscriber or IP addresses, etc. Daly et al. is able to identify a customer from their purchase

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request sent from the set-top box. This inherently comprises a database/table associating the device with the customer and subsequently the customer profile information.

**Schlasberg teaches an information distribution system.** The user can access a database of information and request a particular information object to be delivered to them digitally or otherwise. The information provider has a second database that stores the user's receiving address(es). When the user requests an object, they are given the option of selecting between at least two receiving addresses stored in a database that associates multiple addresses with one user [Page 7, Line 20 – Page 8, Line 20]. The addresses can identify user devices that receive data using different transmission mediums, e.g. one address is a cell phone number, another being an email address [Figure 1].

However, as referenced from First Office Action – Paper #5, in that the system of Daly et al. already allows the user to select their method of payment from a plurality of stored options, it would have been obvious to further modify the system to allow the customer to choose their method of delivery from a database storing their delivery options, as taught by Schlasberg, to allow the customer to receive their purchase anywhere in case the user device they are ordering from has limited information receiving capability [Schlasberg, Page 8, Line 0]. Moreover, Fritsch teaches a system that permits the purchase of audio music files over the Internet. The user can log onto the vendor's web site and browse songs available for purchase (choices broadcast to the user). The consumer after previewing and selecting the songs for purchase can have them delivered using a variety of means, download, mailorder, etc. [Fig. 1], thus it would have been obvious to modify the system of Daly/Schalsberg to include the ability to deliver

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purchased items using the most convenient available means, as taught by Fritsch, in order to provide the most personalized, efficient method of delivery for the consumer.

In reference to claim 12, the system of Daly et al./Schlasberg/Fritsch does not explicitly provide for a system wherein information reflecting the transmission medium for the transmitting means to transmit items to each of the client devices is stored. However, nature of the address whether it is a telephone number or an email address, inherently reveals the type of medium being used to transmit the items.

**Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daly et al. U.S. Patent No. 5,878,141 in view of Schlasberg PCT No. WO 99/17320, in further view of Fritsch, as rejected in claims 1 and 10, in further view of "Set-top box for television that reads your mind" (Taylor, Paul. December 30, 1998. Financial Times)**

The system of Daly et al./Schlasberg/Fritsch does not explicitly provide for a system wherein the remote device maintains a set of previously broadcasted messages for a predetermined time.

"Set-top box..." teaches a system wherein an interactive remote device receives broadcasts from a central location and stores the broadcasts for a predetermined period of time. It would have been obvious to modify the system of Daly et al. and Schlasberg to include the ability to store broadcasts, as taught by "set-top box..." in order to increase customer exposure to available products.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Chang whose telephone number is 703 305 4879. The examiner can normally be reached on 8:30 am - 5:30 pm Mon.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703 308 1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 305 7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

SC  
January 12, 2003

  
**WYNN W. COGGINS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**